

LAW OFFICES
Messer, Caparello & Self
A Professional Association

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Mark Herron
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RECEIVED
05 AUG -2 PM 3:49
LEON COUNTY
ATTORNEY'S OFFICE

August 1, 2005

Herbert W.A. Thiele, Esquire
County Attorney, Leon County
301 South Monroe Street
Tallahassee, FL 32301

RE: *Request for Payment of Attorneys Fees / In re Rudy Maloy, Complaint*
No. 04-127 (Ethics Commission)

Dear Mr. Thiele:

The purpose of this correspondence is to request, on behalf of Commissioner Rudy Maloy, payment of attorney's fees and costs associated with the successful defense of the above-referenced complaint filed with the Commission on Ethics by Eugene Danaher.

This request is submitted in accordance with common law principles providing for the payment of attorney's fees and costs of a public officer in the successful defense of a complaint filed against a public officer as well as the applicable policies of the Leon County Board of County Commissioners regarding the payment of such attorney's fees and costs. With respect to this request, the following information is provided:

- a. The name and address of the person making the request is Mark Herron, Esquire, 215 South Monroe Street, Suite 701, Tallahassee, FL 32301-1858. The request is made on behalf of Rudy Maloy, a former member of the Leon County Board of County Commissioners.
- b. The entity that conducted the investigation was the Florida Commission on Ethics upon the complaint of Eugene Danaher. The complaint at issue was styled: *In re Rudy Maloy, Complaint No. 04-127*.
- c. The Florida Commission on Ethics determined that there was "no probable cause" to believe that Commissioner Maloy violated the

Code of Ethics for Public Officers and Employees, as alleged by Mr. Danaher, and dismissed the complaint.

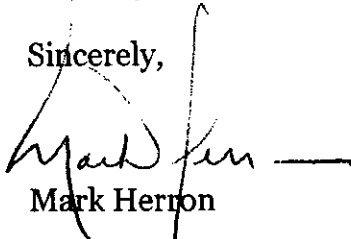
- d. The Florida Commission on Ethics found "no probable cause" to believe that Mr. Maloy violated Section 112.313(6), Florida Statutes, which prohibits "misuse of public position." A copy of the order dismissing the complaint is enclosed.
- e. The alleged wrongful conduct was alleged to have occurred during Commissioner Maloy's tenure on the Leon County Board of County Commissioners.
- f. At all times pertinent to the matters addressed by the investigation of the Florida Commission on Ethics, Commissioner Maloy was a member of the Leon County Board of County Commissioners.
- g. The charges at issue in the complaint involved Commissioner Maloy's conduct as member of the Leon County Board of County Commissioners and resulted in their dismissal by the administrative law judge and the Florida Commission on Ethics following investigation of the complaint.
- h. Representing Commissioner Maloy in this proceeding was Mark Herron, Esquire, 215 South Monroe Street, Suite 701, Tallahassee, Florida 32301-1858 (850-222-0720) and Bruce A. Minnick, Esquire, 3116 Capital Circle, N.E., Suite 10, Tallahassee, FL 32308.
- i. Commissioner Maloy agreed to pay Mr. Herron \$175.00 per hour for his services in connection with this complaint. Attorney's fees and costs due and owing to Mr. Herron, through the firm of Messer, Caparello & Self, P.A. are \$612.50. Copies of billing statements regarding these fees and costs are enclosed herewith. Mr. Minnick may be submitting a separate claim for reimbursement for fees and expenses items incurred on Mr. Maloy's behalf.
- j. No additional fees or cost items have been paid by Mr. Maloy in connection with this matter.

Herbert W.A. Thiele, Esquire
August 1, 2005

Attachment # 2
Page 3 of 8

I trust that this information is responsive to the needs of the County. If you have any additional questions or concerns, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark Herron", followed by a horizontal line.

Mark Herron

Enclosure(s)

cc: The Honorable Rudy Maloy
Bruce A. Minnick, Esquire.

RUDY MALOY
 2324 NAPOLEON BONAPARTE DRIVE
 TALLAHASSEE FL 32308

Page: 1
 July 18, 2005
 Account No: 599-11794
 Statement No: 22402

ETHICS COMPLAINT #04-127

Fees

		Hours	
06/04/2005			
MH	Reviewed e-mail memorandum from Rudy Maloy regarding status of ethics investigation; prepared e-mail memorandum to Rudy Maloy regarding same.	0.10	
06/07/2005			
MH	Reviewed report of investigation; prepared e-mail memorandum to Bruce Minnick and Rudy Maloy regarding same; returned telephone call to Rudy Maloy regarding same.	0.60	
06/08/2005			
MH	Prepared letter to Rudy Maloy regarding report of investigation.	0.30	
06/21/2005			
MH	Reviewed e-mail memorandum from Rudy Maloy regarding status of ethics complaint.		
06/22/2005			
MH	Reviewed Advocate's recommendation; prepared letter to Rudy Maloy regarding same.	0.40	
	For Current Services Rendered	1.40	245.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
MARK HERRON	1.40	\$175.00	\$245.00
Total Current Work			245.00
Previous Balance			\$192.50
Balance Due			<u>\$437.50</u>
Please Remit			<u>\$437.50</u>

ALL INVOICES DUE UPON RECEIPT.
 THANK YOU FOR YOUR PROMPT PAYMENT.

Messer, Caparello & Self, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, Florida 32301
Telephone (850) 222-0720
FEI 59-2921100

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RUDY MALOY
2324 NAPOLEON BONAPARTE DRIVE
TALLAHASSEE FL 32308

Page: 1
April 18, 2005
Account No: 599-11794
Statement No: 21147

ETHICS COMPLAINT #04-127

Fees

		Hours	
02/04/2005			
MH	Received telephone call from Bob Malone (Ethics) regarding status of investigative interview; received telephone call from Rudy Maloy re: same; conferred by telephone with Bob Malone re: same.	0.30	
03/01/2005			
MH	Prepared letter to Rudy Maloy regarding investigative interview.	0.20	
MH	Released telephone call to Bruce Minnick regarding investigative interview request by Ethics Commission Investigation.	0.10	
	For Current Services Rendered	0.60	105.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
MARK HERRON	0.60	\$175.00	\$105.00

Total Current Work	105.00
Previous Balance	\$87.50
Balance Due	<u>\$192.50</u>
Please Remit	<u>\$192.50</u>

ALL INVOICES DUE UPON RECEIPT.
THANK YOU FOR YOUR PROMPT PAYMENT.

Messer, Caparello & Self, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, Florida 32301
Telephone (850) 222-0720
FEI 59-2921100

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RUDY MALOY
2324 NAPOLEON BONAPARTE DRIVE
TALLAHASSEE FL 32308

Page: 1
March 17, 2005
Account No: 599-11794
Statement No: 20610

ETHICS COMPLAINT #04-127

Fees

		Hours	
01/27/2005			
MH	Conferred with Bob Malone (Ethics) regarding status of investigation.	0.10	
01/29/2005			
MH	Prepared letter to Rudy Maloy regarding status of matter and investigative interview; prepared email memorandum to Bruce Minnick and Rudy Maloy regarding same.	0.30	
		0.40	70.00
	For Current Services Rendered		

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
MARK HERRON	0.40	\$175.00	\$70.00
Total Current Work			70.00
Previous Balance			\$17.50
Balance Due			<u>\$87.50</u>
Please Remit			<u>\$87.50</u>

ALL INVOICES DUE UPON RECEIPT.
THANK YOU FOR YOUR PROMPT PAYMENT.

Messer, Caparello & Self, P.A.
215 S. Monroe Street, Suite 701
Tallahassee, Florida 32301
Telephone (850) 222-0720
FEI 59-2921100

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RUDY MALOY
2324 NAPOLEON BONAPARTE DRIVE
TALLAHASSEE FL 32308

Page: 1
December 09, 2004
Account No: 599-11794
Statement No: 18815

ETHICS COMPLAINT #04-127

Fees

Hours

07/06/2004
MH Conferred with Rudy Maloy regarding notification of County attorney.

10/21/2004
MH Received telephone call from Bob Malone (Ethics) regarding status of
investigation.
For Current Services Rendered

0.10
0.10 17.50

Recapitulation

Timekeeper
MARK HERRON

Hours
0.10

Rate
\$175.00

Total
\$17.50

Total Current Work 17.50

Balance Due \$17.50

Please Remit \$17.50

53

ALL INVOICES DUE UPON RECEIPT.
THANK YOU FOR YOUR PROMPT PAYMENT.

215 S. Monroe Street, Suite 701
Tallahassee, Florida 32301
Telephone (850) 222-0720
FEI 59-2921100

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RUDY MALOY
2324 NAPOLEON BONAPARTE DRIVE
TALLAHASSEE FL 32308

Page: 1
July 20, 2005
Account No: 599-11795
Statement No: 22518

ELECTIONS COMPLAINT #04-202

Fees

		Hours		
06/03/2005				
MH	Reviewed order of no probable cause; prepared letter to Rudy Maloy regarding same.	0.20		
	For Current Services Rendered	0.20		35.00
	Recapitulation			
<u>Timekeeper</u>		<u>Hours</u>	<u>Rate</u>	<u>Total</u>
MARK HERRON		0.20	\$175.00	\$35.00
	Total Current Work			35.00
	Previous Balance			\$542.50
	Balance Due			<u>\$577.50</u>
	Please Remit			<u>\$577.50</u>

ALL INVOICES DUE UPON RECEIPT.
THANK YOU FOR YOUR PROMPT PAYMENT.